

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB632)

Received: **11/03/2003**

Received By: **mkunkel**

Wanted: **Today**

Identical to LRB:

For: **Scott Jensen (608) 264-6970**

By/Representing: **John Stolzenberg**

This file may be shown to any legislator: **NO**

Drafter: **mkunkel**

May Contact:

Addl. Drafters: **jkreye
rkite**

Subject: **Nat. Res. - nav. waters
Public Util. - electric
Public Util. - energy
Public Util. - misc.**

Extra Copies: **RJM**

Submit via email: **YES**

Requester's email: **Rep.Jensen@legis.state.wi.us**

Carbon copy (CC:) to: **john.stolzenberg@legis.state.wi.us
david.lovell@legis.state.wi.us
john.lorence@psc.state.wi.us
thomas.steidl@dnr.state.wi.us
todd.stuart@legis.state.wi.us
brett.healy@legis.state.wi.us
joseph.kreye@legis.state.wi.us
robert.marchant@legis.state.wi.u**

Pre Topic:

No specific pre topic given

Topic:

Construction of utility facilities and transmission lines

Instructions:

See Attached

Drafting History:

11/04/2003 12:34:37 PM

Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mkunkel 11/03/2003	kgilfoy 11/03/2003		_____			
/1			chaugen 11/03/2003	_____	lemery 11/03/2003	lemery 11/03/2003	
/2	mkunkel 11/04/2003	kgilfoy 11/04/2003	pgreensl 11/04/2003	_____	sbasford 11/04/2003	sbasford 11/04/2003	

FE Sent For:

<END>

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robert.marchant@legis.state.wi.u**

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Drafting History:12-11/4/03
bmng11/4
11/4
PS/9/11

11/03/2003 10:36:30 AM

Page 1

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/?	mkunkel	1-11/3 Kmg	pb 11-3	AK 11-3 PB			

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

Stolzenberg, John

From: Lovell, David
Sent: Monday, October 27, 2003 10:22 AM
To: Stuart, Todd; Healy, Brett
Cc: Stolzenberg, John
Subject: LRB 3451/1 errata

Todd & Brett

In the course of studying the draft and working on summary materials, John and I have developed a list of comments. I have gotten comments from John Lorence (PSC) and Tom Steidl (DNR), as well. Some of them are picking nits, things that could be overlooked without harm. Others, though, are larger matters or errors in the drafting or the drafting instructions that we think should be corrected, if that can be done.

Options include (a) correcting these things before introduction; (b) correcting them in a committee or floor amendment later; and (c) ignoring them. We would rather not ignore them and, if you don't anticipate the need for an amendment later, it might be best to try to correct them now.

Here's the list:

The bigger items:

1. Some of the deadlines in the new process don't mesh with current statutes. In particular, the bill requires that all permits applications be submitted to the DNR at the same time that a CPCN application is submitted to the PSC, but current statutes (which are not changed by the draft), when added to together, require that the permit applications be submitted 10 days earlier. There are no parallel provisions in the current CA statutes.
2. John Lorence and Tom Steidl (DNR) are concerned that the language on p. 11, l. 18-19 still does not do what we want it to do, and cannot be implemented, on its face, as written. John S. and I agree that the agencies could "make it work" as written, but further work on the wording may be valuable. Tom S. had a good suggestion for rewording it: p. 11, l. 18. Delete "can comply with the requirements of" and substitute "can meet the criteria for obtaining".
3. Elizabeth Kluesner reports to me that she has spoken with Sen. Cowles and Rep. Jensen, who have agreed to address her concern with the limitation on alternatives review on p. 17, l. 1-5. I don't know if you have gotten instructions from them on this matter. I think that E.K. would like to simply delete those lines. An alternative would be to delete only lines 4 and 5, but I don't know if that would satisfy E.K.

Some smaller items:

1. p. 11, l. 1. It appears that "under this chapter or ch. 31" should be deleted, given the revised definition of "permit".
2. p. 13, l. 5. It appears that the phrase "if an environmental assessment is required under the department's rules" should be added at the end of this sentence, to be parallel with p. 22, l. 20-21.
3. p. 13, l. 16. Here, in s. 196.491 (3b) and in all other provisions that cross reference s. 196.491 (3b), John L. suggests referring to "certificate" instead of "certificate of public convenience and necessity", since our revision to the expedited review could lead to either a CA or a CPCN.
4. p. 15, l. 8. Since the DOT does not make decisions, orders or rules regarding the siting of new electric transmission lines, it appears that this would be better if it said "in making all decisions, orders and rules, as those decisions, orders and rules affect the siting of new electric transmission lines". The same could be said of the DNR's role, on p. 8, l. 12.
5. p. 16, l. 19. Insert "cooperatively" after "shall"—cf. the parallel language on line 15 of the same page.
6. p. 20, l. 11 and l. 13. Insert "or a federal agency" after "state". (This drafting instruction got dropped somewhere on the way to the LRB, I think.)
7. p. 22, ll. 5 to 10. While par. (c) works from a legal point of view, it may be confusing to some and more difficult

than necessary to explain because if the PSC invokes the passive review the applicant works to get a certificate of authority under s. 196.49, but if the PSC does not invoke this review, the application is considered approved as a CPCN under s. 196.491 (3). The draft would be "cleaner" if the default, when the PSC did not invoke the passive review, were for the project to receive a CA under s. 196.49.

I will not list the really small nits, but would raise them with the drafters, if the opportunity arises.

Let us know how you want to proceed with revisions—a redraft before introduction, or one or more amendments later.

David

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

Stolzenberg, John

From: Stuart, Todd
Sent: Monday, October 27, 2003 5:01 PM
To: Stolzenberg, John; Lovell, David
Subject: FW: Suggested edits to LRB
Importance: High

FYI

-----Original Message-----

From: Haubrich.Joel [mailto:Joel.Haubrich@we-energies.com]
Sent: Monday, October 27, 2003 4:59 PM
To: Todd Stuart (E-mail); Brett Healy (E-mail)
Cc: Mulroy.Molly
Subject: Suggested edits to LRB 3451/1
Importance: High

Hello Todd and Bret

Attached please find 6 suggested edits for consideration (same ones passed on earlier) on LRB 3451/1. In addition, the LRB text generally makes reference to electric generation facilities and transmission lines. The actual legislative language, or at least the portion of it that relates to changes in the interagency procedures and WEPA coordination, also applies to natural gas pipelines. Therefore, in order to make the LRB analysis more reflective of the actual proposed legislation, we suggest a few additional minor edits, also attached.

Call me if you have questions or concerns.

Thanks.

- Joel

10/28/2003

Analysis by the Legislative Reference Bureau

This bill does all of the following: 1) changes requirements for the Public Service Commission (PSC) to approve the construction of electric generating facilities, and transmission lines, and natural gas pipelines; 2) changes requirements for the Department of Natural Resources (DNR) to issue permits that are required for the construction of certain utility projects; 3) changes requirements for the PSC and DNR to consider the environmental impacts of such projects; 3) declares a state policy regarding the siting of electric transmission facilities; and 4) modifies utility aid payments.

PSC requirements

Under current law, with certain exceptions, a person may not begin the construction of certain electric generating facilities or high-voltage transmission lines before the PSC has issued a certificate of public convenience and necessity to the person. A "high-voltage transmission line" is defined as a line of more than one mile in length that is designed to operate at 100 or more kilovolts. Current law specifies the procedure that a person must follow to apply for a certificate to construct electric generating facilities or high-voltage transmission lines. In addition, current law specifies the findings that the PSC must make before issuing a certificate.

The bill changes an exemption under current law that applies to the construction of certain high-voltage transmission lines. Under current law, a certificate is not required if the line operates at 230 or less kilovolts, and if all construction activity takes place entirely within an existing electric transmission right-of-way. The bill changes the exemption to apply to a line that operates at 345 or less kilovolts. The bill also provides that construction of a line that qualifies for the exemption may proceed even if it is prohibited by a local ordinance.

The bill also creates an expedited procedure for obtaining a certificate for constructing a high-voltage transmission line. The procedure applies only if the construction is limited to adding conductors to existing transmission poles or towers and if all construction activity takes place entirely within an existing electric transmission right-of-way. The PSC must promulgate rules for applying for a certificate under the expedited procedure. If the PSC receives an application that complies with the rules, the PSC must, as soon as practicable, notify the applicant that the PSC has received a complete application. After a complete application is received, the applicant is considered to have been issued a certificate, unless the PSC notifies the applicant within 30 days after the PSC receives a complete application that the public interest requires the applicant to obtain the PSC's approval for the construction. If the PSC makes such a notification, the bill requires the applicant to obtain a certificate that is required under current law for certain public utility construction projects, rather than the certificate of public convenience and necessity that is described above.

DNR requirements

In addition, the bill changes requirements under current law that apply to an application for a certificate to construct an electric generating facility, or a high-

voltage transmission line that is subject to regulatory approval in another state. Under current law, the PSC must complete action on an application within 180 days after the application is complete. (Current law also provides for an extension of this deadline under certain circumstances.) However, current law creates an exemption from the deadline if another state is also taking action on such a facility or line. This bill eliminates the exemption to the deadline. However, the bill also allows the PSC to reconsider an application for a certificate if another state considers certain information or issues in its proceedings that the PSC did not consider and to revoke or amend the certificate.

The bill also makes the following changes:

1. The bill allows the PSC to use a procedure under current law to obtain an inspection warrant for the purpose of inspecting property to gather information related to preparing or reviewing an application for a certificate described above. The bill specifies that the information that may be gathered includes any information necessary to evaluate environmental features or effects that are relevant to such an application.
2. The bill allows a county, town, village, or city that receives certain distributions that are funded with fees paid by persons that construct high-voltage transmission lines to use the distributions for any purpose, if the PSC finds that the purpose is in the public interest. Under current law, such distributions may be used only for park, conservancy, wetland, or other similar environmental programs.
3. The bill requires a person who applies for a certificate to construct a high-voltage line to submit a detailed project plan to DNR. Under current law, the type of plan that a person must submit to DNR for such a line is called an engineering plan, instead of a project plan.
4. The bill requires a person who applies for a certificate of public convenience and necessity for certain electric generating facilities or high-voltage transmission lines to provide a brief description of the anticipated effects of the facility or line on air and water quality, wetlands, solid waste disposal capacity, and other natural resources. Current law limits the description to effects on air and water quality.

Generally, under current law, a person proposing to construct a utility facility in a manner that requires the placement of a structure in navigable waters or that involves the construction or maintenance of a dam is required to obtain one or more permits from DNR. Current law requires DNR to hold a public hearing before granting certain of these permits. Current law also prohibits a person from discharging dredged or fill material into a nonfederal wetland unless the person is issued a water quality certification by DNR.

Under current law, electric utilities that propose to construct an electric generating facility or high-voltage transmission line adjacent to a waterway may use an optional permit procedure to obtain certain DNR permits. Under that optional procedure, if the utility must obtain more than one permit from DNR relating to the placement of structures in navigable waters or the construction or maintenance of a dam, the utility may, instead of submitting separate applications for the permits,

submit an engineering plan to DNR. If the utility submits an engineering plan instead of separate applications or permits, DNR is required to schedule the entire matter for a public hearing, rather than scheduling separate hearings for each permit application. After the hearing, DNR must grant all of the necessary permits if certain conditions are met.

This bill provides that a utility facility that is required to obtain a certificate of ~~public convenience and necessity~~ from the PSC and that is also required to obtain one or more permits from DNR for the placement of a structure in navigable waters, or for the construction or maintenance of a dam, or to obtain a water quality certification for discharging material in a nonfederal wetland, must use a procedure that requires the utility facility to submit only one application for all of those permits. Under that procedure, a person proposing to construct a utility facility must first notify DNR of its intention to file an application. After DNR receives the notice, DNR must confer with that person and, in cooperation with the PSC, make certain assessments and analyses concerning the project. The bill provides that once the application is completed, DNR may schedule the matter for a public hearing. The hearing may not be conducted as a contested case hearing. In a contested case, all parties must be given an opportunity for a hearing and must be given the opportunity to present evidence.

Under the bill, DNR must grant the permits for the utility facility if DNR makes certain findings, including that the proposal complies with certain environmental statutes and that it does not unduly affect public rights and interests in navigable waterways. The bill requires DNR to grant or deny the application within 30 days of the date on which the PSC issues its decision on the utility's application for a certificate of public convenience and necessity.

The bill also specifies that as a part of this permit procedure DNR must review the proposed utility facility to assess whether the location, site, or route is capable of satisfying conditions for obtaining the required permits from DNR and must provide this information to the PSC. DNR must also participate in PSC investigations or proceedings relating to the application for a certificate of public convenience and necessity for the utility facility. The bill provides that if the PSC issues the certificate for that utility facility, after considering DNR's participation in the PSC's proceedings and after considering certain other factors, DNR may not require the applicant to make any further analysis of utility facility alternatives, except that DNR may identify adjustments that may be required to address permitting issues within the location, site, or route for which the certificate is issued.

Under current law, for certain activities affecting navigable waters that are undertaken by riparian owners, or for activities relating to the construction, dredging, or enlarging of certain waterways, DNR may issue general permits authorizing a class of activities. This bill requires DNR to issue a general permit for the construction of those high-voltage transmission line projects to which the expedited procedure created in this bill for obtaining a certificate from the PSC applies.

Environmental impacts

Current law requires state agencies, including the PSC and DNR, to consider

the environmental impacts of proposed actions, including proposals to issue the certificates, permits, and approvals described above. These requirements were created by the Wisconsin Environmental Policy Act (WEPA). The PSC and DNR have promulgated rules for complying with WEPA. Under these rules, the PSC or DNR must prepare an environmental impact statement (EIS) for major actions that significantly affect the quality of the human environment and an environmental assessment (EA) for actions that have the potential to significantly affect the quality of the human environment. Based on the results of an EA, the PSC or DNR may also prepare an EIS.

The bill requires the PSC and DNR to coordinate their compliance with WEPA when the PSC and DNR receive applications for certificates, permits, and approvals that are required for the construction of electric generating facilities, and high-voltage transmission lines, and natural gas pipelines. The bill also requires such coordination when public utilities that are not telecommunications utilities apply to the PSC for certificates authorizing other types of construction projects. Such coordination is also required when a natural gas utility applies to the PSC for a certificate authorizing a project involving switching sources of natural gas supplies.

Under the bill, if the rules of either the PSC or DNR require the preparation of an EIS for an application for a certificate, permit, or approval described above, the PSC and DNR must cooperatively prepare an EIS. If neither agency's rules require an EIS, but either agency's rules require an EA, the PSC and DNR must cooperatively prepare an EA. The joint EIS or EA that is required under the bill must include all of the information necessary for both the PSC and DNR to comply with WEPA. In addition, the bill does not waive the duty of the PSC or DNR to comply with WEPA, except that the PSC and DNR are only required to consider the project that is the subject of the application and one alternative to the project, and that alternative must be an alternative location, site, or route for the project that is specified by the person applying for the certificate, permit, or approval. Under current law, the PSC and DNR must consider more than one alternative under WEPA. In addition, the bill does not waive any duty of the PSC or DNR to take any other action required by law regarding the project.

The bill also specifies that the PSC is not required to prepare an EIS for construction of a high-voltage line that does not require a certificate from the PSC. As discussed above, this exemption is changed by the bill to apply to certain construction activities related to high-voltage transmission lines that operate at 345 or less kilovolts. Although an EIS is not required, the bill requires the PSC to prepare an EA for construction that is subject to the exemption, but only if the PSC's rules require an EA for the construction.

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The bill also specifies that as a part of this permit procedure DNR must review the proposed utility facility to assess whether the location, site, or route is capable of satisfying conditions for obtaining the required permits from DNR and must provide this information to the PSC. DNR must also participate in PSC investigations or proceedings relating to the application for a certificate of public convenience and necessity for the utility facility. The bill provides that if the PSC issues the certificate for that utility facility, after considering DNR's participation in the PSC's proceedings and after considering certain other factors, DNR may not require the applicant to make any further analysis of utility facility alternatives, except that DNR may identify adjustments that may be required to address permitting issues within the location, site, or route for which the certificate is issued.

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Stolzenberg, John

From: Lorence, John PSC
Sent: Monday, October 27, 2003 2:36 PM
To: Lovell, David; Stolzenberg, John
Subject: FW: Suggested edits to LRB 3451/1



Notes on LRB

451-1 (B0261716)..

Attached are a couple suggestions from ATC on 3451/1. I've sent these to DNR as well. Please give me a call and we can talk about these pretty quickly. John, the first edit covers what we talked about yesterday on application timing. We had it like this in our draft but it must have gotten lost in the various translations and I missed this before you mentioned it. The PSC would support that change for sure, as well as several of the others (if it is OK with DNR). Thanks.

John 6-8128

-----Original Message-----

From: LHBochert@MBF-LAW.com [mailto:LHBochert@MBF-LAW.com]
Sent: Monday, October 27, 2003 1:32 PM
To: john.lorence@psc.state.wi.us; david.gilles@psc.state.wi.us; dan.ebert@psc.state.wi.us
Cc: LHBochert@MBF-LAW.com
Subject: Suggested edits to LRB 3451/1

Attached please find 6 suggested edits for consideration on LRB 3451/1.

I am authorized to offer these on behalf of ATC. We Energies has also reviewed them and is comfortable with these suggested edits; although it is possible that We Energies will have additional edits later in the day and, if so, will forward them separately.

Per my conversation with Dan, ATC will be sharing these suggested edits with Senator Cowles and Rep. Jensen this afternoon as well.

Thank you very much.

<<Notes on LRB 3451-1 (B0261716).DOC>>

Linda H. Bochert
Michael Best & Friedrich LLP
One South Pinckney St., Suite 700
P.O. Box 1806
Madison, Wisconsin 53701-1806
608/283-2271 (direct line)
608/283-2275 (fax)
lhbochert@mbf-law.com <mailto:lhbochert@mbf-law.com>
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+++++
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+++++

Stolzenberg, John

From: Stuart, Todd
Sent: Tuesday, October 28, 2003 9:06 AM
To: Lovell, David; Stolzenberg, John
Subject: RE: Reg Reform - LRB 3451/1

It was in a memo Dairyland and Xcel circulated a week or so ago. I re-sent you a copy last night. It looks like those two points are items Customers First is going to want to have included as amendments.

I'll send you an e-mail I got from Brian Rude to the same effect.

-----Original Message-----

From: Lovell, David
Sent: Tuesday, October 28, 2003 9:03 AM
To: Stuart, Todd; Stolzenberg, John
Subject: RE: Reg Reform - LRB 3451/1

Todd,

What is Lee talking about in #2? What is the memo, and what are the bullet points? In particular, what in the world is he talking about appraisers for?

David

David L. Lovell, Senior Analyst
Wisconsin Legislative Council Staff
608/266-1537

-----Original Message-----

From: Stuart, Todd
Sent: Monday, October 27, 2003 4:26 PM
To: Stolzenberg, John; Lovell, David
Subject: FW: Reg Reform - LRB 3451/1

-----Original Message-----

From: Lee Cullen [mailto:cullen@cwpb.com]
Sent: Monday, October 27, 2003 4:19 PM
To: Brett.Healy@legis.state.wi.us; todd.stuart@legis.state.wi.us;
dan.ebert@psc.state.wi.us
Subject: Reg Reform - LRB 3451/1

Dear Dan, Brett, and Todd - Thank you for the opportunity to review LRB 3451/1. At this time we have the following comments:

1. CUB and RENEW have a problem with p. 17, l. 3-4, which eliminates the PSCW's and the DNR's WEPA duty to consider alternatives and limits that duty to consideration of the applicant's proposal and one alternative proposed by the applicant.
2. You have Dairyland's 10/8 memo in this matter. I have not received objections from any CFC members to including bullet points 4 (clarifying a CPCN exemption), 5 (allowing applicants to confer with landowners prior to issuance of a CPCN), and 6 (defining qualified appraiser as certified appraiser).
3. WPPI and MEUW suggest adding "reliability of the electric system" to the standards for transmission-siting policy on p. 7, l. 4.

4. We also suggest changing p. 17, l. 12 from "health or safety impacts" to "health, safety, or environmental impacts."

Thank you for your consideration of these requests. Please call if you would like to discuss these matters.

Lee Cullen
Cullen Weston Pines & Bach LLP
122 West Washington Ave., Suite 900
Madison, WI 53703
E-Mail- cullen@cwpb.com
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www.cwpb.com

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Stolzenberg, John

From: Stuart, Todd
Sent: Tuesday, October 28, 2003 9:07 AM
To: Stolzenberg, John; Lovell, David
Subject: FW: Reform bill

-----Original Message-----

From: bdr@dairynet.com [mailto:bdr@dairynet.com]
Sent: Tuesday, October 28, 2003 6:58 AM
To: todd.stuart@legis.state.wi.us; brett.healy@legis.state.wi.us
Subject: Reform bill

KUDOS to both of you and for your bosses for slogging through the issues involved in simplifying transmission siting. Dairyland is especially grateful for the bipartisan cooperation with Doyle so we can get these changes through the entire process and signed into law.

Customers First has shared some comments with each of you which I would personally consider relatively minor in scope. I hope you can incorporate those changes.

In particular, we are interested in two of our memo points: clarifying who is and who is not a qualified appraiser, and, second, allowing us to talk to landowners before filing a CPCN. The confusion over appraisers is a legal issue which opens windows to delay. The talking to landowners is extremely important: current law does not allow us to talk to them at all, which immediately raises suspicions of our intentions.

I am on the road this week but checking voice mail and e-mails regularly.

Thanks for your good work.

Brian
Brian D. Rude
Director, External Relations
Dairyland Power Cooperative
Phone: 608-787-1320
Fax: 608-787-1281

**To: Senator Cowles
Representative Jensen
Dan Ebert**

**From: NSPW d/b/a Xcel Energy
Dairyland Power Cooperative**

Re: Proposed Transmission Incentives to Landowners

Date: October 8, 2003

We would like to sincerely thank each of you for your efforts to focus attention on the need to increase electrical reliability in Wisconsin by addressing the ongoing problems of siting new transmission lines. The hearing and meetings that have been held have been important steps in identifying ways to improve Wisconsin's energy reliability.

As a follow-up to testimony given by American Transmission Company at the September 16, 2003 hearing of the committees, a proposal has been circulated discussing the potential for annual incentives to landowners to "host" transmission facilities 345 kV and larger. While we applaud efforts to improve the process of siting new transmission lines, we have significant concerns over annual payments to landowners and the unintended consequences that may result. We have outlined our concerns below and offer some alternatives for your consideration.

- Annual payments will not eliminate opposition
 - There is no evidence, empirical or anecdotal, that providing affected landowners annual payments or other compensation to "accept" new transmission lines will diminish the opposition to new lines. It will however increase the cost of new lines, thereby increasing consumer rates. Additionally, payments to "directly affected" landowners and not to "indirectly affected" landowners could exacerbate problems between the two since both groups oppose the lines for the same reasons - concerns over aesthetics, the need for the project, future property values, etc.
- Annual payments to landowners for new transmission lines will create inequity with landowners currently hosting transmission lines
 - Payments to landowners to host new transmission lines beyond easement costs that were paid to landowners hosting the existing lines will create angst between the two groups. All transmission lines, existing and new, are important to electrical reliability in Wisconsin.
- Annual payments will create cross subsidies
 - Ratepayers with limited means or on fixed incomes will potentially be subsidizing wealthy landowners beyond the value of the land rights taken.


- Annual payments will set an undesirable precedent
 - Landowners directly affected by new transmission lines at voltages less than 345 kV or new substations or other utility facilities will not receive any new incentives and will likely push for future incentives also. All voltages greater than 100kV are currently considered transmission, so it is highly likely that communities hosting new transmission lines 100 kV or above will request to be compensated annually also.
 - Annual financial incentives for other infrastructure improvements such as natural gas pipelines and highways could likely follow – raising the issue of “How will a landowner be compensated for a two lane versus a four-lane highway?”

Any type of new financial incentives to affected landowners will increase the cost of electricity in Wisconsin and affect Wisconsin’s competitive position. No other state we know of has such a mechanism. Based on these concerns, we offer the following alternative suggestions to improve the transmission siting process in Wisconsin:

- Provide local units of government flexibility in how they spend the compensatory incentive provided under current law (Wis. Stat. § 196.491 (3g)). Currently, these payments must be spent on environmental improvements. It may help local governments deal with hosting a transmission line if they had some flexibility to use the dollars for other purposes. One alternative could be to develop a “priority” list of uses for the funds – keeping environmental issues at the top of the list.
- Increase the use of shared corridors. The idea of using shared corridors intuitively makes a great deal of sense. We believe more in-depth consideration and study should be given to the use of existing railroad, natural gas pipeline, and existing road corridors to determine how best to encourage this practice and to identify what problems, if any, might be identified.
- Eliminate the CPCN requirement for upgrades of existing lines to higher voltages that do not require structure replacement and are on existing Right-of-Way. Or, at a minimum, develop a streamlined approval process that does not require an alternative route. Upgrades have little visual or environmental impacts.
- Modify Wis. Stats. §196.491 (4)(c) by deleting “...if all related construction activity takes place entirely within the area of an...” and replace it with “...if the facilities are constructed within...”. This change clarifies the existing statute. Current statute does not contain a definition for construction activity, which could be interpreted to include trucks driving across a landowner’s property to get to the line. It is difficult, if not impossible, to rebuild an existing transmission line without having ‘construction activity’ outside the right-of-way.
- Amend Wis. Stats. § 32.03 (5)(a) as follows: "If an electric utility is required to obtain a certificate of public convenience and necessity from the public service commission under s. 196.491 (3), no right to acquire real estate or personal property appurtenant thereto or interest therein for such project by condemnation



shall accrue or exist under s. 32.02 or 32.075 (2) until such a certificate of public convenience and necessity has been issued, provided that this subsection shall not prohibit an electric utility from attempting to negotiate personally with the owner or one of the owners or his or her representative of property prior to the issuance of such a certificate of public convenience and necessity." This will allow a utility to begin discussions with landowners prior to the issuance of a CPCN.

- 
- Create a new Wis. Stats. § 32.06 (c) as follows: "(c) A qualified appraiser under this section is a real estate appraiser who is a certified general appraiser under s. 458.06." This will eliminate disputes about whether an appraiser selected by a landowner to prepare an appraisal is "qualified".
 - Eliminate the need for an engineering plan for transmission projectors currently required under Wis. Stat § 196.491(3). Wis. Stats. § 196.491 (3) was always intended to apply to electric generation facilities and their associated potential air, water and solid waste permit. These types of permits are usually not pertinent to transmission facilities and engineering plans for transmission facilities are not developed until a CPCN has been granted.
 - Create a new Wis. Stats. § 196.491 (3) (d) as follows: "In making a determination required under par. (d), the commission may not consider the amount of just compensation that may be awarded to acquire property by eminent domain." The amount of just compensation is determined under Chapter 32, and is outside the Commission's process under s. 196.491 (3).
 - Require the PSCW to revisit sections of Wis. Adm. Code Chapter PSC 112 that can be time consuming and burdensome, or cover projects that generally have de-minimus environmental impacts. Suggestions for specific areas of the code to be reconsidered are:
 - Increase the dollar threshold for transmission projects requiring a Certificate of Authority under Wis. Adm. Code Chapter PSC 112.05 (3);
 - Consider changes to the 90 day interconnection notification requirement prior to construction of Wis. Adm. Code Chapter PSC 112.04;
 - Consider changes to Wis. Adm. Code Chapter PSC 112.02 (1m) requiring notification to the PSCW for lines > 10 miles but under 100 kV.

We remain committed to working with the Legislature, the Commission, and industry in increasing electrical reliability in Wisconsin by improving the process for new energy infrastructure. The companies thank you for your consideration of our comments as well as our suggested alternatives.

Suggested Edits to LRB-3451/1

1. Page 9, line 12:

This section establishes that the procedure in s. 30.025 is the exclusive procedure for projects which require both a certificate from the PSC and DNR Chapter 30 permits. The language requires the applications to be submitted at the same time. For CPCN projects the current timing sequence in s. 196.491(3) calls for the applicant to wait 60 days from submittal of the engineering plan before filing the CPCN application. It also calls for the applicant to submit permit applications to DNR within 50 days of the engineering plan. Thus, there appears to be a 10-day differential in timing. This problem was solved in the language originally provided by PSC and DNR for drafting by use of the phrase "in a manner consistent with", but that language has been dropped from the LRB draft.

Recommendation: edit page 9, line 12 to add the phrase "in a manner consistent with" after "s.196.49 or".

2. Page 9, lines 19-22: Creates a definition of "Permit"

This section creates a new expanded definition of Permit to include stormwater discharge permits and water quality certifications as well as permits required under Chapters 30 and 31. That solves the problem which arises because some DNR permits can only be applied for by property owners or riparian owners. However, by defining Permit to include all three types of permits and approvals, it may require a project which requires only a stormwater discharge permit, but not a Chapter 30 permit, to utilize this procedure. That doesn't appear to be what is intended.

Recommendation: edit page 9, lines 19-20 to read as follows: "Permit" means a permit or approval required under this chapter or ch. 31, *or a permit or approval required under this chapter or ch. 31 and* a stormwater discharge permit ...

3. Pages 10-11, lines 22-24, and 1-2: Creates s. 30.025(1s)(b):

This section is intended to solve the problem which arises because some DNR permits can only be applied for by property owners or riparian owners. However, the language as proposed appears to be limited to permits required under chapters 30 and 31; thus, it would not include stormwater discharge permits required under s. 283.33(1)(a) and NR 216 for which an applicant must meet the definition of "landowner". It looks as though the intent was to solve this problem by defining the term "Permit" broadly – see Page 9: lines 19-22 define "Permit" to include a permit or approval required under ch. 30 or 31, a stormwater discharge permit required under s. 283.33(1)(a) or a water quality certification required under s. 281.36. However, it doesn't appear as though that broad definition is carried over into s. 30.025(1s)(b).

Recommendation: edit page 11, lines 1 and 2 to read as follows: "facility may require, and to receive such permit regardless of whether that person is a riparian owner *or a landowner.*"

4. Page 11, line 18:

This section deals with DNR's participation in the PSC proceedings. It calls upon DNR to assess whether the proposed location, site or route can comply with DNR permit requirements which have not yet been established. It appears that the intent is to have DNR assess whether the proposed location, site or route can comply with the criteria for issuance of the DNR permit.

Recommendation: edit page 11, line 18 to replace the words "comply with the requirements of" with "meet the requirements for obtaining".

5. Page 12, lines 5-20: Creates s. 30.025(2s):

This section is intended to establish the deference which DNR is to pay to the PSC decision with respect to the evaluation of practicable alternatives, which has been a critical issue under the wetlands requirements of NR 103. The language has been changed from the proposal worked out initially between DNR and PSC and reflected in the proposed legislation and drafting instructions forwarded by the agencies in early October. The new language appears to constrain the deference to situations in which a) DNR actively participates in the PSC proceedings; and b) DNR deems the PSC decision to be consistent with PSC's requirements. That is not what was intended and appears to make DNR the arbiter of whether PSC is implementing its statutory obligations correctly.

Recommendation: beginning on line 8, put a period after the word "facility"; delete the rest of line 8, lines 9-13, and the first four words of line 14; capitalize the word "The" as the start of the sentence on line 14.

6. Page 23, lines 6, and 13: establishes initial applicability:

This section establishes initial applicability. It appears the intent is to have these revisions apply after the legislation is enacted, but use of the word "on" is confusing.

Recommendation: Page 23, lines 6, and 13, replace the word "on" with "after"

Kunkel, Mark

From: Stolzenberg, John
Sent: Monday, November 03, 2003 9:35 AM
To: Kunkel, Mark
Subject: RE: Brownfield language

Mark,

Yes, Sen. Cowles intends for the provision to also apply to merchant plants.

John

-----Original Message-----

From: Kunkel, Mark
Sent: Monday, November 03, 2003 9:16 AM
To: Stolzenberg, John
Subject: RE: Brownfield language

John:

I'm assuming item 31 includes wholesale merchant plants. Is that okay?

-----Original Message-----

From: Stolzenberg, John
Sent: Monday, November 03, 2003 8:48 AM
To: Lorence, John PSC; Steidl, Thomas F
Cc: Stuart, Todd; Healy, Brett; Lovell, David; Kunkel, Mark
Subject: RE: Brownfield language

John and Tom,

In case you haven't had a chance to review in detail the drafting instructions I submitted last Friday to Mark Kunkel, note that based on the agencies input last Friday morning, Sen. Cowles changed the drafting instructions for the brownfields item to apply at the CA/CPCN approval stage rather than during WEPA compliance. See item #31 in the drafting instructions that I distributed last Friday. Also note that this item was provisionally included, pending sign off from the administration. Mark Kunkel's draft language that he presented in his note last Friday at 1:57 PM was based on earlier instructions that were superceded by the item in my list.

Let me know if you have any questions on item #31.

John

-----Original Message-----

From: Lorence, John PSC
Sent: Monday, November 03, 2003 8:26 AM
To: Kunkel, Mark
Cc: Stolzenberg, John; Lovell, David; Steidl, Thomas F; Lorence, John PSC
Subject: RE: Brownfield language

Mark, were we going to limit the brownfield language to electric generating facilities, rather than being applicable to all facilities (ignoring the DNR concern for the time being)?

-----Original Message-----

From: Steidl, Thomas F
Sent: Friday, October 31, 2003 3:24 PM
To: Kunkel, Mark; Lorence, John PSC
Cc: Stolzenberg, John; Lovell, David
Subject: RE: Brownfield language

Mark,

Thanks for the opportunity to look at this draft. In a conversation with David Lovell and John Stolzenberg earlier this afternoon, I conveyed the Department's concern that any prioritization of using brownfield sites for utility facilities **not** be tied to the waiver of the requirement for an alternative site.

I understand that the attached draft language is in follow-up to this morning's discussion. Based on the Department's concern, the Department would not be supportive of the proposed language.

Tom S.

-----Original Message-----

From: Kunkel, Mark
Sent: Friday, October 31, 2003 1:57 PM
To: Lorence, John PSC; Steidl, Thomas F
Cc: Stolzenberg, John; Lovell, David
Subject: Brownfield language

Here is a stab at new language (underlined) and deleted language (stricken). Let me know what you think.

196.025 (2m) (a) In this subsection:

1. "Brownfield" means an abandoned, idle, or underused industrial or commercial facility or site, the expansion or redevelopment of which is adversely affected by actual or perceived environmental contamination.

2. "Certificate" means a certificate under s. 196.49 or 196.491 (3).

196.025 (2m) (c) Paragraph (b) does not waive any duty of the commission or the department to comply with s. 1.11 or to take any other action required by law regarding a project, except that, notwithstanding s. 1.11 (2) (c) 3. and (e), the as follows:

1. Except as provided in subd. 2., the commission and the department are required to consider only the project identified in the an application for the a certificate under s. 196.49 or 196.491 (3) and one alternative to the project and that alternative shall consist of any alternative location, site, or route for the project that is specified by the person proposing the project.

2. If the project identified in an application for a certificate is, or is located on, a brownfield, the commission and department may jointly waive the requirement to consider an alternative to the project.

Kunkel, Mark

From: Stolzenberg, John
Sent: Monday, November 03, 2003 8:48 AM
To: Lorence, John PSC; Steidl, Thomas F
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Cc: Stolzenberg, John; Lovell, David
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2. If the project identified in an application for a certificate is, or is located on, a brownfield, the commission and department may jointly waive the requirement to consider an alternative to the project.

Kunkel, Mark

From: Stolzenberg, John
Sent: Monday, November 03, 2003 10:47
To: Kunkel, Mark
Subject: FW: Suggested edits to LRB 3451/1
Importance: High

Mark,

The 2nd attachment shows We Energies suggested changes to the analysis in AB 632. I understand that these changes are based on input from Linda Bochert.

John

-----Original Message-----

From: Stuart, Todd
Sent: Monday, October 27, 2003 5:01 PM
To: Stolzenberg, John; Lovell, David
Subject: FW: Suggested edits to LRB 3451/1
Importance: High

FYI

-----Original Message-----

From: Haubrich,Joel [mailto:Joel.Haubrich@we-energies.com]
Sent: Monday, October 27, 2003 4:59 PM
To: Todd Stuart (E-mail); Brett Healy (E-mail)
Cc: Mulroy,Molly
Subject: Suggested edits to LRB 3451/1
Importance: High

Hello Todd and Bret

Attached please find 6 suggested edits for consideration (same ones passed on earlier) on LRB 3451/1. In addition, the LRB text generally makes reference to electric generation facilities and transmission lines. The actual legislative language, or at least the portion of it that relates to changes in the interagency procedures and WEPA coordination, also applies to natural gas pipelines. Therefore, in order to make the LRB analysis more reflective of the actual proposed legislation, we suggest a few additional minor edits, also attached.

Call me if you have questions or concerns.

Thanks.

- Joel

11/03/2003

Suggested Edits to LRB-3451/1

1. Page 9, line 12:

This section establishes that the procedure in s. 30.025 is the exclusive procedure for projects which require both a certificate from the PSC and DNR Chapter 30 permits. The language requires the applications to be submitted at the same time. For CPCN projects the current timing sequence in s. 196.491(3) calls for the applicant to wait 60 days from submittal of the engineering plan before filing the CPCN application. It also calls for the applicant to submit permit applications to DNR within 50 days of the engineering plan. Thus, there appears to be a 10-day differential in timing. This problem was solved in the language originally provided by PSC and DNR for drafting by use of the phrase “in a manner consistent with”, but that language has been dropped from the LRB draft.

Recommendation: edit page 9, line 12 to add the phrase “in a manner consistent with” after “s.196.49 or”.

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This section creates a new expanded definition of Permit to include stormwater discharge permits and water quality certifications as well as permits required under Chapters 30 and 31. That solves the problem which arises because some DNR permits can only be applied for by property owners or riparian owners. However, by defining Permit to include all three types of permits and approvals, it may require a project which requires only a stormwater discharge permit, but not a Chapter 30 permit, to utilize this procedure. That doesn't appear to be what is intended.

Recommendation: edit page 9, lines 19-20 to read as follows: “Permit” means a permit or approval required under this chapter or ch. 31, *or a permit or approval required under this chapter or ch. 31* and a stormwater discharge permit . . .

3. Pages 10-11, lines 22-24, and 1-2: Creates s. 30.025(1s)(b):

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4. Page 11, line 18:

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Recommendation: beginning on line 8, put a period after the word "facility"; delete the rest of line 8, lines 9-13, and the first four words of line 14; capitalize the word "The" as the start of the sentence on line 14.

6. Page 23, lines 6, and 13: establishes initial applicability:

This section establishes initial applicability. It appears the intent is to have these revisions apply after the legislation is enacted, but use of the word "on" is confusing.

Recommendation: Page 23, lines 6, and 13, replace the word "on" with "after"

Analysis by the Legislative Reference Bureau

This bill does all of the following: 1) changes requirements for the Public Service Commission (PSC) to approve the construction of electric generating facilities, ~~and transmission lines, and natural gas pipelines~~; 2) changes requirements for the Department of Natural Resources (DNR) to issue permits that are required for the construction of certain utility projects; 3) changes requirements for the PSC and DNR to consider the environmental impacts of such projects; 3) declares a state policy regarding the siting of electric transmission facilities; and 4) modifies utility aid payments.

PSC requirements

Under current law, with certain exceptions, a person may not begin the construction of certain electric generating facilities or high-voltage transmission lines before the PSC has issued a certificate of public convenience and necessity to the person. A "high-voltage transmission line" is defined as a line of more than one mile in length that is designed to operate at 100 or more kilovolts. Current law specifies the procedure that a person must follow to apply for a certificate to construct electric generating facilities or high-voltage transmission lines. In addition, current law specifies the findings that the PSC must make before issuing a certificate.

The bill changes an exemption under current law that applies to the construction of certain high-voltage transmission lines. Under current law, a certificate is not required if the line operates at 230 or less kilovolts, and if all construction activity takes place entirely within an existing electric transmission right-of-way. The bill changes the exemption to apply to a line that operates at 345 or less kilovolts. The bill also provides that construction of a line that qualifies for the exemption may proceed even if it is prohibited by a local ordinance.

The bill also creates an expedited procedure for obtaining a certificate for constructing a high-voltage transmission line. The procedure applies only if the construction is limited to adding conductors to existing transmission poles or towers and if all construction activity takes place entirely within an existing electric transmission right-of-way. The PSC must promulgate rules for applying for a certificate under the expedited procedure. If the PSC receives an application that complies with the rules, the PSC must, as soon as practicable, notify the applicant that the PSC has received a complete application. After a complete application is received, the applicant is considered to have been issued a certificate, unless the PSC notifies the applicant within 30 days after the PSC receives a complete application that the public interest requires the applicant to obtain the PSC's approval for the construction. If the PSC makes such a notification, the bill requires the applicant to obtain a certificate that is required under current law for certain public utility construction projects, rather than the certificate of public convenience and necessity that is described above.

DNR requirements

In addition, the bill changes requirements under current law that apply to an application for a certificate to construct an electric generating facility, ~~or a high-~~

voltage transmission line that is subject to regulatory approval in another state. Under current law, the PSC must complete action on an application within 180 days after the application is complete. (Current law also provides for an extension of this deadline under certain circumstances.) However, current law creates an exemption from the deadline if another state is also taking action on such a facility or line. This bill eliminates the exemption to the deadline. However, the bill also allows the PSC to reconsider an application for a certificate if another state considers certain information or issues in its proceedings that the PSC did not consider and to revoke or amend the certificate.

The bill also makes the following changes:

1. The bill allows the PSC to use a procedure under current law to obtain an inspection warrant for the purpose of inspecting property to gather information related to preparing or reviewing an application for a certificate described above. The bill specifies that the information that may be gathered includes any information necessary to evaluate environmental features or effects that are relevant to such an application.
2. The bill allows a county, town, village, or city that receives certain distributions that are funded with fees paid by persons that construct high-voltage transmission lines to use the distributions for any purpose, if the PSC finds that the purpose is in the public interest. Under current law, such distributions may be used only for park, conservancy, wetland, or other similar environmental programs.
3. The bill requires a person who applies for a certificate to construct a high-voltage line to submit a detailed project plan to DNR. Under current law, the type of plan that a person must submit to DNR for such a line is called an engineering plan, instead of a project plan.
4. The bill requires a person who applies for a certificate of public convenience and necessity for certain electric generating facilities or high-voltage transmission lines to provide a brief description of the anticipated effects of the facility or line on air and water quality, wetlands, solid waste disposal capacity, and other natural resources. Current law limits the description to effects on air and water quality.

Generally, under current law, a person proposing to construct a utility facility in a manner that requires the placement of a structure in navigable waters or that involves the construction or maintenance of a dam is required to obtain one or more permits from DNR. Current law requires DNR to hold a public hearing before granting certain of these permits. Current law also prohibits a person from discharging dredged or fill material into a nonfederal wetland unless the person is issued a water quality certification by DNR.

Under current law, electric utilities that propose to construct an electric generating facility or high-voltage transmission line adjacent to a waterway may use an optional permit procedure to obtain certain DNR permits. Under that optional procedure, if the utility must obtain more than one permit from DNR relating to the placement of structures in navigable waters or the construction or maintenance of a dam, the utility may, instead of submitting separate applications for the permits,

submit an engineering plan to DNR. If the utility submits an engineering plan instead of separate applications or permits, DNR is required to schedule the entire matter for a public hearing, rather than scheduling separate hearings for each permit application. After the hearing, DNR must grant all of the necessary permits if certain conditions are met.

This bill provides that a utility facility that is required to obtain a certificate of ~~public convenience and necessity~~ from the PSC and that is also required to obtain one or more permits from DNR for the placement of a structure in navigable waters, or for the construction or maintenance of a dam, or to obtain a water quality certification for discharging material in a nonfederal wetland, must use a procedure that requires the utility facility to submit only one application for all of those permits. Under that procedure, a person proposing to construct a utility facility must first notify DNR of its intention to file an application. After DNR receives the notice, DNR must confer with that person and, in cooperation with the PSC, make certain assessments and analyses concerning the project. The bill provides that once the application is completed, DNR may schedule the matter for a public hearing. The hearing may not be conducted as a contested case hearing. In a contested case, all parties must be given an opportunity for a hearing and must be given the opportunity to present evidence.

Under the bill, DNR must grant the permits for the utility facility if DNR makes certain findings, including that the proposal complies with certain environmental statutes and that it does not unduly affect public rights and interests in navigable waterways. The bill requires DNR to grant or deny the application within 30 days of the date on which the PSC issues its decision on the utility's application for a certificate of public convenience and necessity.

The bill also specifies that as a part of this permit procedure DNR must review the proposed utility facility to assess whether the location, site, or route is capable of satisfying conditions for obtaining the required permits from DNR and must provide this information to the PSC. DNR must also participate in PSC investigations or proceedings relating to the application for a certificate of public convenience and necessity for the utility facility. The bill provides that if the PSC issues the certificate for that utility facility, after considering DNR's participation in the PSC's proceedings and after considering certain other factors, DNR may not require the applicant to make any further analysis of utility facility alternatives, except that DNR may identify adjustments that may be required to address permitting issues within the location, site, or route for which the certificate is issued.

Under current law, for certain activities affecting navigable waters that are undertaken by riparian owners, or for activities relating to the construction, dredging, or enlarging of certain waterways, DNR may issue general permits authorizing a class of activities. This bill requires DNR to issue a general permit for the construction of those high-voltage transmission line projects to which the expedited procedure created in this bill for obtaining a certificate from the PSC applies.

Environmental impacts

Current law requires state agencies, including the PSC and DNR, to consider

the environmental impacts of proposed actions, including proposals to issue the certificates, permits, and approvals described above. These requirements were created by the Wisconsin Environmental Policy Act (WEPA). The PSC and DNR have promulgated rules for complying with WEPA. Under these rules, the PSC or DNR must prepare an environmental impact statement (EIS) for major actions that significantly affect the quality of the human environment and an environmental assessment (EA) for actions that have the potential to significantly affect the quality of the human environment. Based on the results of an EA, the PSC or DNR may also prepare an EIS.

The bill requires the PSC and DNR to coordinate their compliance with WEPA when the PSC and DNR receive applications for certificates, permits, and approvals that are required for the construction of electric generating facilities, ~~and high-voltage transmission lines, and natural gas pipelines.~~ The bill also requires such coordination when public utilities that are not telecommunications utilities apply to the PSC for certificates authorizing other types of construction projects. Such coordination is also required when a natural gas utility applies to the PSC for a certificate authorizing a project involving switching sources of natural gas supplies.

Under the bill, if the rules of either the PSC or DNR require the preparation of an EIS for an application for a certificate, permit, or approval described above, the PSC and DNR must cooperatively prepare an EIS. If neither agency's rules require an EIS, but either agency's rules require an EA, the PSC and DNR must cooperatively prepare an EA. The joint EIS or EA that is required under the bill must include all of the information necessary for both the PSC and DNR to comply with WEPA. In addition, the bill does not waive the duty of the PSC or DNR to comply with WEPA, except that the PSC and DNR are only required to consider the project that is the subject of the application and one alternative to the project, and that alternative must be an alternative location, site, or route for the project that is specified by the person applying for the certificate, permit, or approval. Under current law, the PSC and DNR must consider more than one alternative under WEPA. In addition, the bill does not waive any duty of the PSC or DNR to take any other action required by law regarding the project.

The bill also specifies that the PSC is not required to prepare an EIS for construction of a high-voltage line that does not require a certificate from the PSC. As discussed above, this exemption is changed by the bill to apply to certain construction activities related to high-voltage transmission lines that operate at 345 or less kilovolts. Although an EIS is not required, the bill requires the PSC to prepare an EA for construction that is subject to the exemption, but only if the PSC's rules require an EA for the construction.

Kunkel, Mark

From: Stolzenberg, John
Sent: Friday, October 31, 2003 3:21 PM
To: Kite, Robin; Kunkel, Mark
Cc: Healy, Brett; Stuart, Todd; Jordahl, Harald - Office of Governor Jim Doyle; Boyce, Katie - Office of Governor Jim Doyle; Henderson, Patrick - Office of Governor Jim Doyle; Kluesner, Elizabeth M; Ebert, Dan PSC; Steidl, Thomas F; 'Lorence, John (PSC)'; Lovell, David
Subject: Drafting instructions for AB 632/SB 300 Substitute Amendment

Mark and Robin,

Here's the consolidated list of drafting instructions for substitute amendments to 2003 AB 632 and SB 300. Let David or me know if you have any questions on any of the listed items.

John



AB 632 - Drafting
instructions...

John Stolzenberg
Legislative Council
266-2988

DRAFTING INSTRUCTIONS FOR SUBSTITUTE AMENDMENTS TO AB 632 / SB 300

Bullet points identify subject and source

1. Page 1, line 11: modify the relating clause to better reflect the content of the substitute amendment.
 - Clarification. PSC, LRB staff.
2. Page 7, line 5: after “considerations” insert “reliability of the electric system”.
 - Make reliability explicit in transmission policy. MEUW, WPPI, Cullen/Customers First Coalition.
3. Page 8, line 8: delete the material beginning with “To” and ending with the second “the” on line 10 and substitute “The”.
 - Cleaner drafting, arose in consideration of page 7, line 5 change. LRB staff.
4. Page 8, line 11: substitute “affecting” for “regarding”.
 - Part of page 15, line 8 change.
5. Page 9, line 12: after “or” insert “in a manner consistent with”.
 - Inconsistent application deadlines between s. 30.025 and 196.491 (3). Bochert/ATC/We Energy; LC staff.
6. Page 9, line 20: delete “a storm water discharge permit required under s. 283.33 (1) (a)”
 - If only DNR permit is storm water discharge permit, don’t use s. 30.025 process. Bochert/ATC/We Energy, as modified by Tom Steidl language.
7. Page 9, line 22: after the period insert “In addition, if the project also requires a storm water discharge permit under s. 283.33 (1) (a), that permit is also included in the term “permit”.”
 - Part of page 9, line 20 change.
8. Page 9, line 23: substitute “means” for “includes”.
 - Technical. PSC
9. Page 10, line 2: delete the material beginning with “if” and ending with “The” on line 6 and substitute “the”.
 - Conforms text with page 9, line 23 change.
10. Page 11, line 1: delete “under this chapter or ch. 31”.
 - Technical, to conform to definition of “permit.” LC staff

11. Page 11, line 2: delete "regardless of whether that person is a riparian owner".

- Expand to cover DNR storm water discharge permits that require applicant to be a landowner. Bochert/ATC/We Energy, as modified by PSC & DNR.

12. Page 11, line 10: substitute "regional" for "district".

- Technical, reflects current DNR terminology for its field offices. PSC.

13. Page 11, line 18: substitute "meet the criteria for obtaining" for "comply with the requirements of".

- DNR info provided in PSC proceeding can't be based on permit conditions in a future permit approval which haven't been established at this stage in the process. Bochert/ATC/We Energy, as modified by DNR & PSC, LC staff.

14. Page 13, line 5: after "construction" insert "if an environmental assessment is required under the department's rules"

- Technical, conforms with PSC's comparable provision in SEC. 46. LC staff.

15. Page 13, line 16: delete "of public convenience and necessity".

- Reflects that s. 196.491 (3b) process can lead to a CA or CPCN (SEC. 20 contains the only cross reference to s. 196.491 (3b) in the bill). PSC, LC staff.

16. Page 13, line 16: after that line insert:

(1) "Section 19m. 32.03 (5) (c) of the statutes is created to read:

(2) 32.03 (5) (c) This subsection shall not prohibit an electric utility from attempting to negotiate with the owner or one of the owners of property, or his or her representative, prior to the issuance of a certificate of public convenience and necessity, provided that the electric utility advises the owner or his or her representative that it will not have authority to acquire such property by condemnation until the issuance of a certificate of public convenience and necessity."

- Allow utility to talk to landowners before CPCN issued. DPC, based on Lee Cullen language.

17. Page 15, line 5: delete the material beginning with "To" and ending with the second "the" on line 6 and substitute "The".

- Cleaner drafting, arose in consideration of page 7, line 5 change. LRB staff.

18. Page 15, line 8: substitute "affecting" for "regarding".

- DOT doesn't make decisions, orders or rules regarding the siting of new transmission lines. LC staff.

~~19.~~ Page 15, line 21: delete the material beginning with "To" and ending with the second "the" on line 22 and substitute "The".

- Cleaner drafting, arose in consideration of page 7, line 5 change. LRB staff.

~~20.~~ Page 15, line 24: substitute "affecting" for "regarding".

- Part of page 15, line 8 change.

~~21.~~ Page 16, line 9: after "(3)" insert and requiring a permit or approval from the department".

- Clarifies that cooperative WEPA process in s. 196.025 only applies when the utility project requires a DNR permit or approval (not limited to "permits," as defined in s. 30.025 (1b) (b) in the bill). PSC.

~~22.~~ Page 16, line 19: after shall insert "cooperatively".

- Technical, to make parallel to page 16, line 15 text. LC staff.

~~23.~~ Page 16, line 21: delete "required".

- Technical, not needed. PSC

~~24.~~ Page 17, line 3: delete the material beginning with the second "and" and ending with "project" on line 5.

- 2 alternatives for WEPA analysis too limiting; don't need to be from the applicant. Cullen/Customers First Coalition, MEUW, CUB, RENEW.]

~~25.~~ Page 20, line 7: delete lines 7 to 20.

- SEC. 40 not needed in light of more general stat., s. 196.39, and since no deadlines are being proposed for SEC. 40 text (alternative to adding references to federal processes/decisions necessitating PSC reconsideration). LC staff, PSC, LRB staff.

~~26.~~ Page 21, line 21: delete the material beginning with "of" and ending with "necessity" on line 22.

- Reflects that s. 196.491 (3b) process can lead to a CA or CPCN. PSC, LC staff.

~~27.~~ Page 22, line 10: delete "(3)".

- Technical. PSC

~~28.~~ Page 23, line 4: delete lines 4 to 6.

- Technical, no longer needed in light of page 20, line 7 change. PSC.

~~29.~~ Page 23, line 13: add a reference to the definition of "permits."

- Technical. LRB staff.

30. ~~Page~~ 23, line 14: after that line insert an initial applicability clause for changes in ch. 196, other than the creation of s. 196.02 (5m) on property inspections, apply to a CA or CPCN applied for on the effective date of this subsection.

- Clarifies that the bill doesn't apply to CA or CPCN applications currently being considered or reconsidered by the PSC, including the Arrowhead-Weston transmission line. LC staff, PSC.

31. New provisions: insert in the approval criteria for a CPCN and CA that a new electric generating facility be sited on brownfields to the extent practicable.

- Priority for siting power plants on brownfields ("to the extent practicable" standard is the same standard for interstate transmission lines being sited on existing rights-of-way in s. 196.491 (3) (d) 3r.). Cowles, based on WPS testimony (has not yet received the Administration's approval).

Compiled by John Stolzenberg
Legislative Council
October 31, 2003